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Statement submitted by Transparency International, a non-governmental organization in consultative status with the Economic and Social Council**

The following document is being circulated in accordance with paragraph 1 (i) of resolution 4/6 of the Conference of the States Parties to the United Nations Convention against Corruption and rule 17, paragraph 3 (b), of the rules of procedure for the Conference.

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Transparency International Statement to the Sixth Session of the UNCAC Implementation Review Group

The injustice and inequity caused by corruption is well-known and multifaceted. Concerted action to counter corruption and money laundering is essential to achieve sustainable development, stop the spread of organized crime and reverse the trend of increasing impunity for grand corruption. The UN Convention against Corruption offers the needed framework for such action.

Priority attention is needed in key vulnerable areas. Corruption-related money-laundering, facilitated by the banking sector and the real estate and luxury good markets, is one such area. Another is government contracting. With vast sums of money at stake, few government activities create greater temptations and offer more opportunities for corruption. UNODC states that "a procurement system that lacks transparency and competition is the ideal breeding ground for corrupt behaviour".[1]

Ensuring capable, functionally independent and well-resourced anti-corruption institutions is also essential if anti-corruption efforts are to succeed. Too often anti-corruption agencies are thwarted by political interference or hampered by puny budgets. Enhancing accountability and transparency in the police and the judiciary is another key step in countering corruption and organized crime, since these institutions may themselves be vulnerable to those threats. Findings from Transparency International (TI) show that the police and judiciary are perceived to be among the top-three most corrupt institutions in a country.[2]

Finally, putting an end to corruption requires the involvement of all areas of society, as recognised in UNCAC Articles 5 and 13. Lack of public information, consultation and dialogue processes undermine anti-corruption efforts. Worse still, constraints on civil society anti-corruption organizations that effectively negate the rights to freedom of expression, association and assembly render it impossible for them to play their role.

Transparency International (TI) welcomes the adoption of the Doha Declaration at the 13th UN Congress on Crime Prevention and Criminal Justice, including its emphasis on State obligations under the UNCAC and its endorsement of urgently-needed measures to effectively address illicit financial flows that conceal the proceeds of corruption and threaten the entire UN post-2015 agenda.

TI also applauds UNODC's ongoing support to anti-corruption efforts worldwide, including training and assistance to States Parties and civil society organisations in relation to the UNCAC implementation review process.

Taking into account the foregoing, we have the following recommendations to the 6th session of the UNCAC Implementation Review Group, proposed as the basis for action at the upcoming 6th session of the UNCAC Conference of States Parties:

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2 http://www.transparency.org/gcb2013/results.

Increase efforts to stem money-laundering

Company secrecy laws, complex ownership structures, and complicity and complacency among members of both the private and public sectors, create a protective veil for those that are benefitting from corrupt practices and obstructing law enforcement investigations.

We therefore urge governments to:

- **Establish public registers to end company ownership secrecy:**
  Governments should establish public corporate registers that include beneficial ownership information, while increasing the transparency of trusts to avoid their misuse for money laundering purposes. Governments should also facilitate improvement in the due diligence conducted by the "facilitators" of illicit financial flows, including casinos, real estate agents, lawyers, accountants and company formation agents, through stricter laws requiring the licensing of service providers who form trusts and companies.

- **Increase bank scrutiny of Politically Exposed Persons**
  Governments should ensure the independent, efficient and rigorous supervision of banks and financial professionals to ensure that they conduct enhanced due diligence with regard to Politically Exposed Persons (PEPs). International bodies should align and broaden definitions of PEPs and eliminate distinction between foreign and domestic PEPs. They should expand internationally-agreed definitions of PEPs to include public functions considered high risk and use lists of officials required to file asset declarations to identify who is considered a PEP for each country. All countries that have FATF-compatible regulations should enforce and monitor them. Countries lacking such PEP regulations must urgently adopt them.[3]

- **Regulate luxury investments and enforce existing regulations:**
  Governments should adopt and enforce laws that are subject to the same AML obligations as financial institutions. This would extend to requiring real estate and associated financial brokers, as well as other high-end luxury goods dealers, to refuse cash payments above a certain amount; to know who they are doing business with (to keep a record of the identity or beneficial owner); and to report anything suspicious. Also the categories of luxury goods dealers identified by FATF should be expanded to include traders in goods whose value exceeds a given threshold. Non-compliance should be subject to dissuasive sanctions, such as withdrawal of the licence (where applicable), financial penalties and incarceration to create a clear cost for actions.[4]

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[3] See: //www.transparency.org/whatwedo/publication/policy_brief_05_2014_closing_banks_to_the_corrupt_the_role_of_due_diligence

[4] See: http://www.transparency.org/whatwedo/publication/policy_brief_04_2014_regulating_luxury_investments.

Increase procurement transparency[5]

Worldwide, procurement spending averages between 13 and 20 percent of gross domestic product.[6] The OECD estimates that corruption drains between 20 and 25 percent of national public procurement budgets.[7] Transparency should pervade all steps in the procurement cycle as it enables processes and decisions to be monitored and reviewed, and helps ensure that corruption is prevented and detected and decision-makers are held accountable.

We therefore urge governments to:

- **Publish selection and award information and clear justifications for awarding contracts as well as the details of awarded contracts and information on the execution, performance, and completion of the contract in a timely and routine manner:**
  As provided in UNCAC Article 9, governments must publish selection criteria and details of the method of award in full and in a timely manner before the procurement process begins. Governments should ensure monitoring of contracts is independent and disclose any contract alterations or sanctions, including debarment from future tenders. Governments should also have in place adequate corruption complaint mechanisms to suppliers.

- **Collect and disclose the identity and beneficial ownership of all bidders and require the disclosure of financial assets by officials involved in procurement processes and their close family members:**
  Governments must require this information from all bidders, and must publish this information at the time of the award. In addition to procurement-specific laws and regulations, laws prohibiting conflicts of interest and mandating asset disclosure are essential.

- **Make information on public procurement available for free in widely used open and structured formats:**
  Digital information should be published in widely used formats that are non-proprietary, searchable, shareable, sortable, platform-independent and machine-readable.

Ensure that anti-corruption agencies are independent and well-resourced

Anti-corruption agencies (ACAs) can offer an effective institutional approach to tackling corruption, but only if they are provided with the means to carry out their mission. UNCAC Articles 6 and 36 call for States parties to ensure the existence of independent bodies established to prevent corruption and promote anti-corruption

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[5] For further information see Transparency International's "Curbing Corruption in Public Procurement, A Practical Guidei and the open Contracting Partnership's Open Contracting Global Principles.ii

[6] OECD, "Fighting Corruption in the Public Sector": www.oecd.org/gov/ethics/meetingofleadingpractitionersonpublicprocurement.htm, 2013

[7] OECD, "Implementing the OECD Principles for Integrity in Public Procurement": www.oecd-ilibrary.org/governance/implementing-the-oecd-principles-for-integrity-in-public-procurement/why-clean-public-procurement-matters_9789264201385-3-en;jsessionid=95lfbj6h46u4a.x-oecd-live-01, 2013.

policies and principles, as well as to combat corruption. Today, Anti-Corruption Agencies (ACAs) have been established in nearly 150 countries.[8]
However, across the world a wide gap exists between the establishment of ACAs and the actual realisation of their mandates.
We therefore urge governments to:

- **Ensure that Anti-Corruption Agencies (ACAs) are functionally independent and well-resourced.** Only then do ACAs have the potential to improve the prevention, detection and sanctioning of corruption. Parameters for strong anti-corruption agencies are laid out in the *Jakarta Statement on Principles for Anti-Corruption Agencies*[9], which provides credible guidance for States and merits endorsement by the UNCAC Conference of States Parties. In order to assist progress towards the endorsement of these principles, Transparency International will launch an initiative this year to assess the performance of anti-corruption agencies in the Asia Pacific region.

Ensure transparent and accountable law enforcement and justice institutions

Criminal actors, especially organized crime, are able to leverage institutional weaknesses in the law enforcement sector, especially lack of transparency and accountability, to corrupt or take advantage of already corrupt public officials in order that their illegal activities advance unhindered. This phenomenon culminates in extremely high rates of impunity for homicide and corruption in affected countries, which itself further exacerbates violence and destabilization.[10]

Reforms are needed that deliver effective safety and policing strategies and access to justice to all people within a state, free of abuse.

We therefore urge governments to:

- **Increase adoption and exercise of effective accountability standards and mechanisms** targeting national and local security and justice sectors and institutions (e.g. civil police, prosecutors, safety ministries). These should ensure robust internal and external oversight of state security and justice procurement authorities. This includes procurement practices, human resource policies, fiscal transparency, whistleblower protection, policy formulation and implementation, as well as performance evaluation.

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[8] Principles for Anti-Corruption Agencies: A Game Changer; Jaegere, Samuel De, Jindal Journal of Public Policy, Vol. 1, Issue 1, Aug. 2012, http://www.pogar.org/publications/ac/2012/publications/PrinciplesSamuelDeJaegere.pdf.

[9] http://www.unodc.org/documents/corruption/WG-Prevention/Art_6_Preventive_anti-corruption_bodies/JAKARTA_STATEMENT_en.pdf.

[10] According to the UN the sentence rate in Latin America is 24 per 100 victims: UNODC: Global Study on Homicide 2013: https://www.unodc.org/documents/data-and-analysis/statistics/GSH2013/2014_GLOBAL_HOMICIDE_BOOK_web.pdf . In Mexico, for example, 80% of homicides rates go unpunished. And in Honduras 95 to 98 percent of crimes committed go without punishment throughout the country. See: Wilson Center, "Best Practices to Reduce Homicide Rates", p. 8.

- **Improve conditions for victims and witnesses** of corruption and abuse of power, including violence, in the security and justice sectors to come forward and access justice. Whistleblower legislation should introduce the highest international standards of whistleblower protection, as embodied in the *International Principles for Whistleblower Legislation prepared by Transparency International.*[11]

- **Increase participation by civil society**, and, at local level, affected communities in law enforcement strategy formulation and oversight. Only by working with those closest to and most affected by the problems of corruption and abuse of power in security and justice institutions, and establishing "confidence networks" between communities and vetted, reform-minded actors within the security and justice networks, will it be possible develop legitimate and sustainable strategies for citizen security.

- **Improve generation and access to open data** relevant to effective oversight of security and justice institutions by civil society. We support UNODC efforts to promote transparent, verifiable, and comparable crime and victimization statistics across countries and seek more open, proactive disclosure regarding institutional budgets, procurement, asset declarations of institution officials, and human resource policies and decision making. .

Increase civil society participation in anti-corruption efforts

UNCAC Article 13 recognizes a role for civil society organisations in anti-corruption efforts and calls upon States Parties to actively promote their involvement, including through recognition of the rights to freedom of expression, association and assembly, as well as through access to information and anonymous reporting channels.

This recognition should apply not only at national but also at international level. The UN through its Institutional Integrity Initiative aims to apply UNCAC to itself. The report of the Special Rapporteur on Freedom of Association and Assembly on *Multilateral Institutions and Their Effect On Assembly and Association Rights(A/69/365)* stresses that these rights also apply at the multilateral level and that multilateral organizations, like states, have responsibilities to maintain an enabling environment for civil society. The report identified good and bad examples among the multilaterals, with exclusion of civil society from UNCAC subsidiary bodies cited as a bad example.

Further, the Rules of Procedure of the UNCAC Conference of States Parties, particularly Rules 2 and 17, entitle civil society organisations to participate as observers in UNCAC subsidiary bodies and the Terms of Reference of the UNCAC Review Mechanism establish "inclusion" as one of its guiding principles and.

[11] http://www.transparency.org/whatwedo/publication/international_principles_for_whistleblower_legislation.

We therefore urge governments to:

- **Create safe and effective conditions for civil society and engage with non-state actors** Governments should provide effective protection to civil society organizations and actively consult and engage with civil society across all areas of corruption policy development, implementation, and monitoring.

- **Ensure civil society participation as observers in UNCAC subsidiary bodies.** Exclusion of civil society groups from UNCAC subsidiary bodies is inconsistent with UN and UNCAC values, standards and rules. CSOs should be permitted to participate as observers in UNCAC subsidiary bodies.